

HOUSE BILL 69

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2002 Regular Session
2lr0870
CF 2lr0452

(PRE-FILED)

By: **Delegate Weir**
Requested: November 13, 2001
Introduced and read first time: January 9, 2002
Assigned to: Environmental Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 12, 2002

CHAPTER _____

1 AN ACT concerning

2 ~~Waterfowl~~ **Riparian Property - Potomac River - Stationary Blind and Blind**
3 **Site Licensing**

4 FOR the purpose of ~~repealing the prohibition on the ability of certain owners of~~
5 ~~certain property in certain states to license their shoreline adjacent to the~~
6 ~~Potomac River to establish certain blinds or blind sites; authorizing owners of~~
7 ~~certain property in a certain state to license their shoreline adjacent to certain~~
8 ~~waters of the Potomac River to establish certain blinds or blind sites; providing~~
9 ~~for the effective date of this Act altering a certain prohibition on the licensing of~~
10 ~~certain stationary blinds or blind sites by owners of certain riparian property~~
11 ~~adjacent to the Potomac River; authorizing the licensing of certain stationary~~
12 ~~blinds or blind sites by owners of certain riparian property adjacent to the~~
13 ~~Potomac River; and generally relating to the licensing of certain stationary~~
14 ~~blinds and blind sites by owners of certain riparian property adjacent to the~~
15 ~~Potomac River.~~

16 BY repealing and reenacting, with amendments,
17 Article - Natural Resources
18 Section 10-607(a)
19 Annotated Code of Maryland
20 (2000 Replacement Volume and 2001 Supplement)

21 BY repealing and reenacting, without amendments,
22 Article - Natural Resources
23 Section 10-607(b)
24 Annotated Code of Maryland

1 (2000 Replacement Volume and 2001 Supplement)

2 Preamble

3 WHEREAS, Under Chapter 4 of the Acts of the General Assembly of the First
4 Special Session of 1973, the Maryland General Assembly enacted the nonsubstantive
5 code revision of a new Natural Resources Article; and

6 WHEREAS, Although the Court of Appeals has held that this 1973 Act did not
7 effectuate a substantive change in the law, Bureau of Mines v. George's Creek, 272
8 Md. 143, 155 (1974), language inserted by that Act prohibiting a nonresident from
9 obtaining a stationary blind or blind site license for riparian shoreline did cast doubt
10 on the rights of out-of-state riparian owners to obtain this license; and

11 WHEREAS, In the process of transferring blind site licensing authority from the
12 clerks of court to the Department of Natural Resources, Chapter 703 of the Acts of
13 1999 added an express prohibition on the blind site licensing of nonresident riparian
14 owners adjacent to the Potomac River; and

15 WHEREAS, In its September 7, 2001 review of this issue, the Office of the
16 Attorney General of Maryland found that, under the Privileges and Immunities
17 Clause of the U. S. Constitution, the denial of shoreline licensing rights solely to
18 out-of-state residents has an unconstitutional effect on the commercial rights of
19 these individuals; and

20 WHEREAS, The tidal portion of the Potomac is bordered by Virginia and
21 Maryland, and its shoreline is well suited to licensing stationary blinds and blind
22 sites; and

23 WHEREAS, The nontidal portion of the Potomac is bordered by Virginia, West
24 Virginia, and Maryland, and the vast majority of this Maryland shoreline is owned by
25 the federal government and is, therefore, unavailable for shoreline licensing; and

26 WHEREAS, What little of the nontidal Potomac shoreline in Maryland that is
27 not federally owned consists of both mainland shoreline and islands; and

28 WHEREAS, Given the statutory authorization of hunting wild waterfowl from a
29 boat that is drifting or being sculled, also known as "sneak boating", in the nontidal
30 waters of the Potomac River under § 10-605(a) of the Natural Resources Article, the
31 mainland shoreline is not appropriate for the establishment of stationary blinds or
32 blind sites; and

33 WHEREAS, The island shoreline, which is better suited for the establishment of
34 these blinds and blind sites, is an area for which shoreline licenses are already issued;
35 and

36 WHEREAS, The General Assembly seeks to address prior oversights in the law
37 regarding the shoreline licensing rights of nonresidents and to correct this
38 inadvertent discrimination to the fullest extent possible, while recognizing the

1 limitations operative on the mainland portion of the State shoreline that is adjacent
 2 to the nontidal Potomac River; and

3 WHEREAS, The General Assembly hereby provides for the equal treatment of
 4 residents and nonresidents in the licensing of stationary blinds and blind sites along
 5 the Potomac shoreline in Maryland by authorizing the issuance of these licenses
 6 along shoreline that is adjacent to the tidal waters of the Potomac River, as well as on
 7 the island shoreline that is adjacent to the nontidal waters of the Potomac, and by
 8 prohibiting the issuance of licenses along the mainland shoreline that is adjacent to
 9 the Potomac's nontidal waters; now, therefore,

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 11 MARYLAND, That the Laws of Maryland read as follows:

12 **Article - Natural Resources**

13 10-607.

14 (a) (1) [This] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
 15 SUBSECTION, THIS section shall apply only to owners of riparian property in
 16 Maryland regardless of the residency of the owner.

17 (2) ~~Persons~~ Under this subtitle, persons owning riparian property in:

18 (I) MARYLAND OR Virginia [or West Virginia] that is adjacent to
 19 the TIDAL WATERS OF THE Potomac River may [not] license ~~their~~ STATE shoreline
 20 ~~under this subtitle; AND~~

21 (II) MARYLAND, VIRGINIA, OR WEST VIRGINIA THAT IS ADJACENT
 22 TO THE NONTIDAL WATERS OF THE POTOMAC RIVER:

23 1. MAY LICENSE STATE ISLAND SHORELINE; AND

24 2. MAY NOT LICENSE STATE MAINLAND SHORELINE.

25 (b) Riparian landowners may license their riparian shoreline:

26 (1) To establish offshore stationary blinds or blind sites for hunting wild
 27 waterfowl; and

28 (2) To prevent other persons from licensing the riparian shoreline for the
 29 purpose of hunting wild waterfowl offshore.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 31 June 1, 2002.

